

## **REMARKS**

### **Status of the Claims**

Claims 1-25 are pending in this application, and Claims 16-24 are withdrawn from consideration as being drawn to a non-elected invention. Claims 1-15 and 25 are presently under examination, each of which was rejected by the Patent and Trademark Office ("PTO") in the March 10, 2004, Office Action.

Respectfully, Applicants request reconsideration of the rejected claims in view of the following remarks.

### **Rejection of Claims 1-15 and 25 under 35 U.S.C. § 103(a)**

Claims 1-15 and 25 were rejected in the March 10, 2004, Office Action under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,363,278 to *Pfaendner et al.* in view of U.S. Patent No. 6,224,804 to *Schwonke et al.*

Respectfully, Applicants traverse this rejection on the basis that the PTO has misconstrued *Pfaendner et al.*, because *Pfaendner et al.* does not support the proposition for which it is cited.

**A) Claims 1-13 and 25.** It is the position of the PTO that *Pfaendner et al.* shows carpet flooring comprising at least one grafted copolymer and polyolefins including ULDPE. According to the PTO, *Pfaendner et al.* discloses grafted copolymers (column 20, lines 57-67), including maleic anhydride grafted to high density polyethylene (MAH-g-HDPE), combined with ULDPE. Further, the PTO cites *Schwonke et al.* as providing the claimed density which, when combined with *Pfaendner et al.*, is said to render obvious Applicants' Claims 1-13 and 25.

Respectfully, Applicants assert that *Pfaendner et al.* does not disclose combining a grafted copolymer such as MAH-g-HDPE with polyolefins, as the PTO states. Rather, *Pfaendner et al.* discloses combining polyolefins with the reaction product of a *compatibilizer* such as MAH-g-HDPE with a *stabilizer* compound selected from group consisting of sterically hindered phenols, sterically hindered amines, lactones, sulfide, phosphites, benzotriazoles, benzophenones and 2-(2-hydroxyphenyl)-1,3,5-triazines, which compounds contain at least one functional reactive group (col. 2, lines 20-29; col. 15, line 65-col. 20, line 40).

In summary, *Pfaendner et al.* discloses reacting “A” (a compatibilizer) + “B” (a stabilizer) to give “C” (a compatibilizer/stabilizer), and then mixing “C” with selected polyolefins. The PTO misinterprets *Pfaendner et al.* as disclosing mixing “A” (a compatibilizer) with selected polyolefins. Nowhere does *Pfaendner et al.* teach or suggest mixing compatibilizers such as MAH-g-HDPE with a polyolefin such as ULDPE. Respectfully, Applicants maintain that there is no basis for citing *Pfaendner et al.* in a 35 U.S.C. § 103(a) rejection of Claims 1-13 and 25.

It is also the position of the PTO that *Pfaendner et al.* shows carpet flooring comprising copolymers of ethylene and octene, and flooring comprising crosslinked polyethylene (March 10, 2004, Office Action, Page 3). The PTO relies on *Schwonke et al.* as providing the claimed copolymer density and claimed cross-linking agents, so as to render obvious Applicants’ Claims 1-13 and 25.

Again, Applicants respectfully assert that regardless of the polyolefin disclosed by *Pfaendner et al.*, this reference does not disclose combining any polyolefin with a grafted copolymer such as MAH-g-HDPE, as the PTO states. Rather, *Pfaendner et al.* discloses combining polyolefins with the reaction product of a *compatibilizer* such as MAH-g-HDPE with

a *stabilizer* compound selected from group consisting of sterically hindered phenols, sterically hindered amines, lactones, sulfide, phosphites, benzotriazoles, benzophenones and 2-(2-hydroxyphenyl)-1,3,5-triazines, which compounds contain at least one functional reactive group (col. 2, lines 20-29; col. 15, line 65-col. 20, line 40).

Respectfully, Applicants maintain that *Pfaendner et al.* does not support the proposition for which is it cited, thus there is no basis for citing *Pfaendner et al.* in a 35 U.S.C. § 103(a) rejection of Claims 1-13 and 25. Accordingly, Applicants request that this rejection be removed and Claims 1-15 and 25 be allowed.

**B) Claims 14-15.** According to the PTO, Claims 14-15 are rejected under 35 U.S.C. § 103(a) on the basis of *Pfaendner et al.*, as relied upon for the rejection of Claims 1-13 and 25, in combination with *Schwonke et al.*, which the PTO states provides claimed color pattern and homogeneous design.

Respectfully, Applicants assert that the PTO has misinterpreted *Pfaendner et al.* and cannot rely on *Pfaendner et al.* for this rejection because it does not support the proposition for which it is cited, for the reasons stated above. Because there is no basis for citing *Pfaendner et al.* in a 35 U.S.C. § 103(a) rejection of Claims 14-15, Applicants request that this rejection be removed and these claims be allowed.

**C) Claims 9 and 14.** It is the position of the PTO that the phrase “are used as co-cross-linking agents” in Claim 9 introduces process limitations to product claims. Applicants respectfully maintain that this phrase does not appear in pending Claim 9, and therefore request that this rejection be removed and Claim 9 be allowed.

Further, it is the position of the PTO that the phrase “is used as filler” in Claim 14 introduces process limitations to product claims. Applicants respectfully maintain that this

phrase does not appear in pending Claim 14, and therefore request that this rejection be removed and Claim 14 be allowed.

### CONCLUSION

Respectfully, Applicants maintain that the PTO has misinterpreted *Pfaendner et al.* because *Pfaendner et al.* does not support the proposition for which it is cited. Further, Applicants respectfully assert that *Pfaendner et al.* and *Schwonke et al.*, either alone or in combination, do not teach or suggest the claimed invention, and therefore request that Claims 1-15 and 25 be allowed.

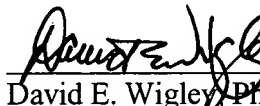
Applicants believe the Response herein places the claims in condition for allowance. Accordingly, such action is respectfully requested. Respectfully, Applicants request an in-person interview with the Examiner at the Examiner's earliest convenience. Applicants will be contacting the Examiner by telephone to see if such a meeting can be scheduled.

No additional fees are believed due, however, the Commissioner is hereby authorized to charge any deficiencies which may be required, or credit any overpayment, to Deposit Account Number 09-0528.

Early and favorable consideration is respectfully solicited. If the Examiner believes any informalities remain in the application that can be resolved by telephone interview, a telephone call to the undersigned attorney is requested.

Respectfully submitted,

July 16, 2004  
Date

  
\_\_\_\_\_  
David E. Wigley, Ph.D.  
Registration No. 52,362

**WOMBLE CARLYLE SANDRIDGE & RICE, PLLC**  
P. O. Box 7037  
Atlanta, Georgia 30357-0037  
(404) 872-7000 (Firm)  
(404) 879-2435 (Direct Telephone)  
(404) 879-2935 (Facsimile)